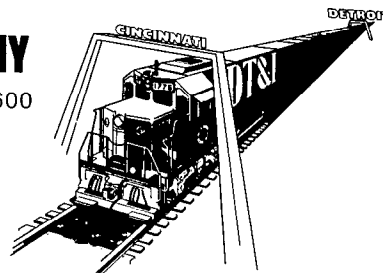


# DETROIT, TOLEDO AND Ironton RAILROAD COMPANY

ONE PARKLANE BOULEVARD • DEARBORN, MICHIGAN 48126 • (313) 336-9600



November 13, 1979

11055

RECORDATION NO. .... Filed 1425

NOV 15 1979 - 11 15 AM

Interstate Commerce Commission

Room 1227

12th and Constitution Avenue, N.W.

Washington, D.C. 20423

INTERSTATE COMMERCE COMMISSION

Date NOV 15 1979

Fee \$ 50.00

Attention: Mrs. Mildred Lee

ICC Washington, D. C.

Dear Mrs. Lee:

Enclosed please find eight (8) signed counterparts of Conditional Sale Agreement dated as of November 15, 1979 for recording in accordance with Section 20(c) of the Interstate Commerce Act and described as follows:

Vendor: Continental Illinois National Bank and Trust Company of Chicago

Purchaser: Detroit, Toledo and Ironton Railroad Company

Description of Equipment: Four (4) 3000 horsepower, GP 40-2 model EMD diesel electric locomotives.

We ask that you kindly return all copies bearing recordation numbers not needed for your records to the bearer of this letter.

Also enclosed is our check in the amount of \$50.00 covering fees for recordation of these documents.

Yours very truly,

DETROIT, TOLEDO AND Ironton  
RAILROAD COMPANY

P. J. Freeman

Assistant Treasurer - Contracts

PJF/vjb  
Enclosures

NOV 15 1979  
RECEIVED  
I.C.C.  
OPERATION BR.

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

11/15/79

OFFICE OF THE SECRETARY

P.J. Freeman  
Detroit, Toledo, And Ironton RR.Co.  
One Parklane Blvd.  
Dearborn, Michigan 48126

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 11/15/79 at 11:15am , and assigned re-recording number(s). 11055

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

11055  
RECORDATION NO. .... Filed 1425

NOV 15 1979 -11 15 AM

INTERSTATE COMMERCE COMMISSION

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CONDITIONAL SALE AGREEMENT NO. 51

DATED AS OF NOVEMBER 15, 1979

BETWEEN

CONTINENTAL ILLINOIS NATIONAL BANK  
AND TRUST COMPANY OF CHICAGO

AND

DETROIT, TOLEDO AND IRONTON RAILROAD COMPANY

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CONDITIONAL SALE AGREEMENT NO. 51

THIS AGREEMENT, made as of the 15th day of November, 1979, by and between CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association of Chicago, Illinois, (hereinafter sometimes called "Vendor"), and DETROIT, TOLEDO AND IRONTON RAILROAD COMPANY, a Delaware corporation, with an office in the City of Dearborn, Michigan, (hereinafter sometimes called "Vendee").

WITNESSETH:

WHEREAS, by an agreement between General Motors Corporation, Electro-Motive Division, a Delaware corporation, (hereinafter sometimes called "EMD" and sometimes "Builder") and Vendee comprising: (a) EMD's Proposal #786215, signed by B. C. Burdick on September 12, 1978, as modified by summary quotation dated September 28, 1979, copies of which are attached hereto as Exhibit A, and (b) Vendee's purchase order dated November 3, 1978, Numbered D 32475, a copy of which is attached hereto as Exhibit B (which documents are hereinafter collectively called the "Contracts"), whereby EMD has agreed to construct, sell and deliver and Vendee has agreed to purchase four (4) 3000 horsepower, GP 40-2 Model Diesel Electric Locomotives (hereinafter sometimes called the "Equipment").

WHEREAS, Vendee has requested Vendor, as its designee, to take title to the Equipment directly from the Builder, pay the purchase price therefor pursuant to the Contracts, and thereupon sell the Equipment to Vendee on certain terms and conditions.

NOW, THEREFORE, in consideration of the mutual promises of the parties hereto, hereinafter set forth, the parties hereto agree as follows:

1. ACQUISITION OF EQUIPMENT BY VENDOR

1.1 Subject to the terms and conditions of this Agreement, Vendee hereby assigns, transfers, and sets over unto Vendor, its successors and assigns: (a) all the right, title, and interest of Vendee in and to the Equipment when and as delivered by Builder, subject to payment by Vendor to Builder of the amount required to be paid pursuant to Section 1.2 hereof; (b) all the right, title, and interest of Vendee in and to the Contracts (except the right to cause Builder to construct and deliver the Equipment); and (c) except as heretofore limited, all of Vendee's rights, titles, powers, privileges, and remedies under the Contracts; provided, however, that all obligations of Builder to Vendee with respect to the Equipment shall be and remain enforceable by Vendee, its successors and assigns, against and only against Builder.

1.2 Vendor agrees to accept a transfer of title from Builder and on the closing date (as hereinafter defined in Section 1.3 hereof) to pay the purchase price provided in the Contracts; and to accept the Bill of Sale as herein provided; and Vendor shall not be bound to perform or answer for any other obligation, liability or duty required by or arising out of the Contracts; provided, however that Vendor's obligations hereunder are subject to the fulfillment to its satisfaction, prior to or on the Closing Date (except as otherwise provided below), of the following conditions:

- (a) EMD shall have delivered to Vendor its invoice or invoices pursuant to the Contracts showing thereon the final purchase price.
- (b) Vendee shall have paid to Vendor the amount of the final purchase price in excess of Two Million Two Hundred Eighty Thousand Four Hundred Twenty Dollars (\$2,280,420.00), as such purchase price may be determined after taking account of any changes in specifications and as shown on the invoice or invoices delivered to Vendor pursuant to subparagraph (a) of this Section 1.2.
- (c) EMD shall have executed and delivered to Vendor, Builder's Bill of Sale, identical in substance and similar in form to that annexed hereto as Exhibit C.
- (d) Vendee shall have delivered to Vendor a duplicate original of its Certificate of Acceptance of the Equipment.
- (e) Vendor shall have received evidence satisfactory in extent and in form to Vendor and to Vendor's counsel that execution and delivery of the Bill of Sale has been duly authorized.
- (f) Vendor shall have received from counsel for the Vendee opinions satisfactory in extent and form to Vendor and to Vendor's counsel with respect to the following: (i) on the date hereof, the legal matters referred to in Sections 3.1 through 3.4 hereof, and (ii) on the Closing Date, the legal matters referred to in Section 3.5 hereof.

(g) This Agreement shall have been filed and recorded with the Interstate Commerce Commission in accordance with Section 20(c) of the Interstate Commerce Act 49 U.S.C. Section 11303.

(h) Such other documents as the Vendor may reasonably request.

1.3 The term "Closing Date" as used herein shall mean such date, not more than ten (10) Business Days following presentation by Builder to Vendor of the Bill of Sale and invoices provided in Section 1.2 (a) and (c) herein, as shall be fixed by Vendee by written notice delivered to Vendor at least three (3) Business Days prior to the Closing Date designated therein. The term "Business Day" as used herein means any calendar day which is not a Saturday, Sunday or Holiday on which the Vendor is closed to business. It is understood that the Closing Date shall be fixed not later than January 31, 1980 (hereinafter called the "Termination Date").

## 2. CONDITIONAL SALE BY VENDOR TO VENDEE

2.1 Upon completion of the transfer of title to Vendor and payment to the Builder contemplated in Section 1 hereof, Vendor will sell to Vendee and Vendee will purchase from the Vendor the Equipment, subject to the terms and conditions of this Agreement. Sale by Vendor shall be without warranties or representations of any sort except Vendor warrants to the Vendee that it has not heretofore done, committed or willingly suffered to be done or committed, any act or thing whatsoever, whereby the Equipment is or shall be charged or encumbered in title or otherwise whatsoever. Vendee has possession of the Equipment and Vendee's delivery to Vendor of an executed counterpart of its Certificate of Acceptance constitutes conclusive evidence that the Equipment has been accepted and is held by the Vendee, subject to the terms and conditions of this Agreement. Vendor shall retain full legal title to and property in all said Equipment until Vendee shall have made all the payments and shall have performed all of the covenants in this Agreement provided to be made, kept or performed by Vendee, notwithstanding the delivery of the equipment to and the possession and use thereof by Vendee as herein provided. Any and all replacement of parts of the Equipment or additional equipment or facilities installed thereon or therein shall constitute accessions to the Equipment the title to which shall be immediately vested in Vendor, and which shall be subject to all the terms, reservations and conditions of this Agreement. When Vendee shall have paid in full the entire purchase price for all of said Equipment, with interest thereon, and all other payments herein provided to be made by Vendee with respect thereto, title to and property in each and all said Equipment shall pass to Vendee without further transfer or act on the part of the Vendor, but Vendor will, if requested by Vendee to do so, execute and deliver to Vendee a Bill of Sale or other instruments of conveyance of the Equipment; and warranty

of title to the Equipment in such Bill of Sale or other instruments of conveyance thereof shall be only against the acts and deeds of the Vendor. To the extent permitted by applicable law, Vendee hereby waives any and all rights to the payment of any fines or penalties for failure of Vendor to comply with any applicable statute with respect to evidencing satisfaction of this Conditional Sale Agreement, except for failure to do so within a reasonable time after written demand by Vendee.

2.2 Vendee hereby acknowledges itself to be indebted to the Vendor, and hereby promises to pay to the Vendor at such place as the Vendor may designate, the principal sum of Two Million, Two Hundred Eighty Thousand, Four Hundred Twenty Dollars (\$2,280,420.00) (hereinafter called the "Conditional Sale Indebtedness").

2.3 The principal of the Conditional Sale Indebtedness shall be payable by Vendee in forty (40) equal quarter-annual installments on the 15th day of February, May, August and November of each year, beginning on the 15th day of February, 1980, in accordance with the Schedule of Payments annexed hereto as Exhibit D. Commencing with the installment payment due February 15, 1980, and upon each quarterly installment due date thereafter, Vendee shall have the right to prepay the then remaining total unpaid principal balance in full, providing Vendee has given Vendor thirty (30) days notice thereof, and upon the additional payment of a prepayment penalty computed as follows: (1) if prepayment during the First year - four percent (4%) of the amount prepaid, (2) if prepayment during the Second year - three percent (3%) of the amount prepaid, (3) if prepayment during the Third year - two percent (2%) of the amount prepaid, (4) if prepayment during the Fourth year - one and one-half percent (1½%) of the amount prepaid, and (5) if during the Fifth year - one percent (1%) of the amount prepaid. Vendor has a right to refuse said prepayment if Vendee is making said prepayment from a refinancing institution.

2.4 The Vendee agrees to pay interest on the unpaid principal balance of the Conditional Sale Indebtedness from time to time outstanding at the rate of eleven and one-quarter per cent (11¼%) per annum; provided, however, that the Vendee will pay to the extent legally enforceable interest at the rate of twelve and one-half per cent (12½%) per annum upon all amounts remaining unpaid after the same shall become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding. Accrued interest shall be payable upon each quarterly installment due date of principal, provided, however, that interest accruing on any amounts remaining unpaid after the same shall become due and payable shall be payable on demand. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

2.5 If any payment of principal of, or interest on, the Conditional Sale Indebtedness falls due on a day which is not a Business Day (as hereinafter defined), then such due date shall be extended to the next following Business Day, and additional interest shall accrue and be payable for the period of such extension.

2.6 The Vendee agrees to pay to the Vendor a commitment fee for a period from and including December 1, 1979, to the earlier to occur of the Closing Date or the Termination Date, of one-half ( $\frac{1}{2}$ ) of one per cent (1%) per annum on the amount of the Conditional Sale Indebtedness not yet paid by the Vendor to the Builder, calculated on the basis of a 360-day year consisting of twelve 30-day months. In the event the Closing Date shall not be fixed on or before the Termination Date, the Vendee shall pay to the Vendor on the Termination Date any accrued and unpaid commitment fee, and all further rights and obligations of the Vendor and Vendee hereunder shall forthwith terminate. Any accrued commitment fee shall otherwise be payable on the Closing Date.

2.7 All moneys received by the Vendor under Section 4.3 and 4.4 hereof and applicable to the reduction of the principal shall be applied to the payment of installments of principal in the inverse order of their maturity. If, after applying as aforesaid the sums of money realized by Vendor, there shall remain a surplus in the possession of Vendor, such surplus shall be paid to Vendee.

2.8 All payments by Vendee hereunder shall be free of expense to Vendor for collection or other charges, and no deduction shall be made therefrom of the amount of any manufacturer's sales or use tax or taxes (including any increase therein) imposed by Federal, State, Municipal or other Governmental authority upon the manufacture and/or sale and/or use of the Equipment, all of which expenses and taxes Vendee assumes and agrees to pay or reimburse Vendor for in addition to the above mentioned purchase price of the Equipment.

2.9 Vendee shall, in addition, pay promptly all taxes, assessments and Governmental charges which from time to time after delivery may be imposed upon the Equipment, or the earnings arising therefrom, or the operation thereof, by any Government or any county, state or political subdivision thereof, in which the Equipment may be located, or which shall have jurisdiction over the Equipment or any part of them, and Vendee agrees at all times to keep the Equipment free and clear of all tax liens and encumbrances; provided, however, that Vendee shall not be required to pay any tax, assessment or other Governmental charge, the validity of which Vendee shall contest in good faith and by appropriate legal proceedings, until such contest shall have been decided, if the non-payment thereof does not, in the judgment of Vendor expressed by written notice to Vendee, materially and adversely affect its rights and interest in the Equipment.

2.10 All payments provided for in this Agreement shall be made by Vendee to Vendor in such currency of the United States of America as at the time of payment is legal tender for payments of public and private debts and in immediately available funds.



### 3. REPRESENTATIONS AND WARRANTIES

The Vendor represents and warrants that the execution of this Agreement is within its corporate authority and has been authorized by proper corporate authority. The Vendee represents, warrants and covenants that:

3.1 The Vendee is a duly organized and validly existing corporation in good standing under the laws of the State of Delaware and has the power and authority to own its properties and carry on its business as now conducted.

3.2 The execution and delivery of this Agreement is within its corporate authority, has been authorized by proper corporate proceedings and will not contravene any provision of law or of its charter, bylaws or any agreement or other instrument binding upon it, and the Agreement is a valid and binding obligation of the Vendee enforceable against the Vendee in accordance with its terms.

3.3 No Governmental authorizations are required as to the Vendee for the execution and delivery of the Agreement or for the validity and enforceability thereof or the conditional sale hereunder on the terms and conditions provided for herein; or, if any such authorizations are required, they have been obtained.

3.4 No litigation or administrative proceedings are pending or, to the knowledge of the Vendee, threatened against the Vendee, the adverse determination of which would affect the validity of this Agreement, the ability of the Vendee to fulfill its obligations hereunder, or the rights of the Vendor hereunder.

3.5 Upon delivery by Builder of the Bill of Sale described in Section 1.2 (c) herein, Vendor shall thereby acquire full legal title to the Equipment and good and lawful right to sell Equipment and title to Equipment shall be vested in Vendor free of all claims, liens and encumbrances of any nature, subject only to the rights of Vendee under this Agreement, provided however, that as to the following matters, the warranties of Vendee in this Section 3.5 are limited to a warranty that Vendee does not have notice to the contrary thereof; that the Builder is a duly organized and validly existing corporation in good standing and has the power and authority to carry on its business as now conducted; that said Bill of Sale has been duly authorized and delivered by Builder and is a valid instrument binding upon Builder in accordance with its terms and will not contravene any provision of law or its charter, bylaws or other agreement or other instrument; that Builder has not made or suffered any transfer of title to, or permitted any claim, lien or encumbrances against the Equipment; and that Vendor is vested with all the right, title and interest of Builder in the Equipment.

3.6 Vendee has possession of the Equipment, has accepted the same, and the said Equipment conforms to all Interstate Commerce Commission requirements and specifications interpreted as being applicable to railroad Equipment of the character of such Equipment and the Equipment is free from defects in material and workmanship and is in good and serviceable condition.

3.7 The Vendor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the units of equipment delivered to the railroad hereunder, and the Vendor makes no warranty of merchantability or fitness of the units of equipment for any particular purpose or as to title to the units of equipment or any component thereof, or any other representation or warranty, express or implied, with respect to any unit of equipment, either upon delivery thereof to the Vendee or otherwise, it being agreed that all such risks, as between the Vendor and the Vendee, are to be borne by the Vendee; but the Vendor hereby irrevocably appoints and constitutes the Vendee its agent and attorney-in-fact to assert and enforce from time to time, in the name of and for the account of the Vendor and/or the Vendee, as their interests may appear, at the Vendee's sole cost and expense, whatever claims and rights the Vendor may have against the Manufacturer under the provisions of the Purchase Agreement, the Assignment, or both; provided, however, that if at any time an event of default shall have occurred and be continuing hereunder, the Vendor may assert and enforce, at the Vendee's sole cost and expense, such claims and rights. Without limiting the foregoing, the Vendor shall have no responsibility or liability to the Vendee or any other person with respect to, and the Vendee shall indemnify and hold harmless the Vendor from any losses, costs, damages, penalties, forfeitures, claims or expenses related to or arising from, any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any units of Equipment or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) claimed or proved violations or invasions of any patent or invention rights; (iii) the use, operation or performance of any units of Equipment or any risks relating thereto; (iv) any interruption of service, loss of business or anticipated profits or consequential damages; or (v) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any units of Equipment. The Vendee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Vendee and the Vendor that the units of Equipment described therein are in all the foregoing respects satisfactory to the Vendee, and the Vendee will not assert any claim of any nature, whatsoever against the Vendor based on any of the foregoing matters.

#### 4. AFFIRMATIVE CONVENANTS

4.1 The Vendee agrees that so long as any amount of the purchase price is outstanding hereunder, it will furnish Vendor: (a) within ninety (90) days after and as of the end of each calendar year, and more often if requested, a report as to the condition of the Equipment, provided the Vendor shall also have the right, but shall be under no obligation, to inspect the Equipment at any reasonable time or times during the continuance of this Agreement; (b) within ninety (90) days after and as of the end of each of Vendee's fiscal years, a detailed consolidated audit report of Vendee certified by independent certified public accountants satisfactory to Vendor; (c) within thirty (30) days after and as of each quarter including the last quarter of each fiscal year, a consolidated balance sheet and consolidated statement of profit and loss of Vendee certified by an authorized officer of Company; (d) as soon as available and in any event within one hundred twenty (120) days after the end of each of Vendee's fiscal years, a copy of the Annual Report Form R-1 for such fiscal year filed with the Interstate Commerce Commission by the Vendee; and (e) forthwith upon earning of the occurrence of an Event of Default (as hereinafter defined in Section 6.1), or an event which if it continues incurred will, with lapse of time or notice or both, constitute an Event of Default, or of the institution of, or an adverse determination in, any litigation or administrative proceeding which would affect the validity of this Agreement, the ability of the Vendee to fulfill its obligations hereunder, or the rights of the Vendor hereunder, written notice describing such event and the steps being taken by the Vendee with respect to such event.

4.2 Vendee shall comply in all respects with all laws of any country, the United States and of the States and political subdivisions thereof, in or through which the said Equipment may be operated, covering the use, operation and maintenance of said Equipment, and with the lawful rules with respect to said Equipment of the Interstate Commerce Commission, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over said Equipment; and in the event that the said laws or rules require any alterations of any of said Equipment, or any additional Equipment or appliances thereon, Vendee shall conform therewith at its own expense and shall maintain said Equipment in proper condition for operation under such laws and rules during the life of this Agreement.

4.3 At all times while this Agreement is in force, Vendee, at his own expense shall keep the said Equipment adequately insured against damage or destruction by fire, while on its own lines or on lines over which it operates, in an insurance company or companies approved by Vendor. The policies shall specify that all payments of loss on said Equipment shall be made to Vendor. The policies of insurance, certified copies thereof, or certificates of coverage satisfactory to Vendor, shall be deposited with Vendor. In case Vendee shall fail to keep such

Equipment so insured and to deposit policies, certified copies thereof or certificates of coverage as aforesaid, Vendor may itself insure such Equipment, and in this event Vendee shall be obligated to repay to Vendor the amounts of premiums paid therefor with interest thereon at the rate of eleven and one-quarter percent (11 $\frac{1}{4}$ %) per annum from the time of notice of Vendee of such premium payment until repaid, which notice to Vendee shall be made by delivering to Vendee a certified copy of such policy or policies of insurance, or certificates of coverage giving the terms of coverage of such policies in reasonable detail. All insurance moneys shall be paid to Vendor and shall be applied by Vendor on the next ensuing quarter-annual installment payment date to the reduction of the principal in accordance with the provisions of Section 2.7 herein, unless on or before said next ensuing installment payment date Vendee shall have given notice to the Vendor that Vendee intends to repair or that it has repaired the Equipment in respect of which such insurance moneys were paid. If such notice shall be given, said moneys shall, upon satisfactory evidence of the repair of such Equipment, be paid over to Vendee. If such evidence of repair shall not be given within a reasonable period after the giving of such notice, then Vendor shall apply such moneys to the reduction of principal in accordance with the provisions of Section 2.7 herein.

4.4 Vendee at its own cost shall keep all said Equipment in good condition and proper running order, and in case any Equipment shall be (a) worn out or in a condition for a period of 12 consecutive months which would require its inclusion for such 12 month period in bad order reports (or any reports made in substitution therefor) to be made to the Association of American Railroads (or any successor thereof, it being understood that currently bad order reports are made on a monthly basis on AAR form CS-56); or (b) lost, stolen, destroyed, damaged to an extent that repair is impractical or uneconomic, condemned, requisitioned, confiscated or seized by any governmental authority, taken by eminent domain, or otherwise rendered permanently unfit for use from any cause whatsoever, prior to the payment in full of the Conditional Sale Indebtedness, together with interest thereon and all other payments required hereby, the Vendee shall, within twenty (20) days of such event, fully inform the Vendor in regard to such destruction or damage and shall, within thirty (30) days of such event, pay to the Vendor a sum (less any moneys received pursuant to Section 4.3) equal to the fair value as in good repair of each Equipment so damaged or otherwise rendered permanently unfit for use. For the purpose of this Section 4.4, the fair value of any Equipment as in good repair shall be deemed to be the original cost thereof less an amount representing depreciation arising from reasonable wear and tear to be determined by the method in use at the time in standard railroad practice for determining such depreciation, but in no event exceeding 1/10th of said original cost for each full twelve (12) month period elapsed from the date of delivery and acceptance thereof hereunder to the date as of which such fair value is to be determined, as evidenced by a certificate signed by an officer of the Vendee and delivered to the Vendor. If Vendee shall have received or shall receive from another source compensation for the destruction of such Equipment in excess of such fair value, Vendee shall pay such excess to Vendor when received. All moneys paid by Vendee to Vendor under this Section 4.4 shall be applied to reduction of principal in accordance with the provisions of Section 2.7 herein.

4.5 Vendee has fastened, and will always cause to be kept fastened, upon each side of each piece of Equipment a metal plate or stenciling bearing the following words in letters not less than one inch in height "Owned by a Bank or Trust Company under a Security Agreement Filed Under the Interstate Commerce Act, Section 11303". Such plates or stenciling will be so located as to be readily visible and to indicate plainly ownership of said Equipment. In case, during the continuance of this Agreement, such plates, stenciling or markings shall at any time be removed, defaced or destroyed, Vendee shall immediately at its own cost, cause the same to be restored or replaced; and if by reason of change of law or otherwise additional or other plates or markings shall be required to protect the interest of the owner, Vendee shall provide and install and thereafter maintain the same on all such Equipment. The Equipment may be lettered "Detroit, Toledo and Ironton Railroad Company", "D.T.&I." or in some other appropriate manner, as Vendee may desire, and may be numbered for convenience in identification; but Vendee, during the continuance of this Agreement, will not allow the name of any corporation or other party to be placed on any of the Equipment, in such manner that such name or designation might be interpreted as a claim of ownership thereof by any person, association or corporation other than Vendor or its assignee. In case Vendee shall change the number assigned to or placed on any Equipment, immediate notice of such change shall be given to Vendor so that it may correct its records accordingly. In the event, subsequent to entering into this Agreement, of a transfer or assignment, or successive transfers or assignments, by Vendor or its assignee of title to said Equipment (and of Vendor's rights hereunder in respect thereof), whenever requested by any such transferee or assignee, Vendee shall change the ownership plates on all the Equipment to indicate the title of such transferee or assignee to such Equipment and its succession to rights of Vendor hereunder, and the expense of making such change in plates shall be borne by the party or parties requesting such change, except only that the cost of making such change in connection with the first assignment by Vendor shall be borne by Vendee.

4.6 Vendee shall bear the risk of and shall not be released from its obligation hereunder in the event of any damage to or destruction or loss of any of the said Equipment from any cause whatsoever. Vendee further agrees to save, indemnify and keep harmless Vendor from and against all loss, damages, injuries, claims, demands or expenses whatsoever, regardless of the cause thereof, in connection with any accident or otherwise arising from or caused by operation or use of said Equipment while this Agreement is in force. With respect to any loss, damages, injuries, claims, demands and expenses in connection with any such accident or otherwise arising from or caused by operation or use of said Equipment while this Agreement is in force, such covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the Conditional Sale Indebtedness and the conveyance of title to the Equipment, as provided in Section 2.1 hereof, or the termination of this Agreement in any manner whatsoever. Vendee will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Vendee or its successors or assigns, which, if unpaid, might

become a lien or a charge upon the Equipment, or any unit thereof, equal or superior to the title of Vendor thereto, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the non-payment thereof does not, in the opinion of Vendor, adversely affect the property rights of Vendor hereunder.

4.7 Vendee agrees that after delivery of the Equipment, it will be kept, maintained and used by the Vendee solely upon the lines of the Railroad owned or operated by it or over which it has trackage rights and upon the lines of connecting and other railroads in the usual interchange of traffic.

## 5. NEGATIVE COVENANTS

The Vendee covenants and agrees that so long as any portion of the Conditional Sale Indebtedness remains unpaid and outstanding hereunder, it will not, without the prior written consent of Vendor, assign or transfer this Agreement or any of its rights hereunder.

## 6. DEFAULTS AND REMEDIES

6.1 Each of the following shall constitute an Event of Default under this Agreement:

- (a) default in the payment when due of any principal of or interest on the Conditional Sale Indebtedness or any fees or other amounts payable pursuant to Sections 2 and 4 hereof, and such default shall continue for more than ten (10) days after such payment shall have become due and payable;
- (b) default in the performance of any other obligation under this Agreement and such default shall continue for a period of thirty (30) days after written notice thereof has been given by Vendor to Vendee;
- (c) the failure of Vendee to pay any long term indebtedness for borrowed money or the deferred long term purchase price of property or any interest or premium thereon, when due, whether such indebtedness shall become due by scheduled maturity, by required prepayment, by acceleration, by demand or otherwise; or the failure of Vendee to perform any term, covenant or agreement on its part to be performed under any agreement or instrument evidencing or securing or related to any such indebtedness when required to be performed, if the effect of such failure is to accelerate or to permit the holder or holders of such indebtedness or the trustee or trustees under any such agreement or instrument to accelerate the maturity of such indebtedness, shall be deemed a breach of this Agreement and a default hereunder; "Long term indebtedness for borrowed money" as used herein shall mean any obligation payable over a period of more than one year

from the date of the creation thereof or which is renewable pursuant to the terms of an agreement, to a date more than one year after the date of the creation of such obligation, or may be payable out of the proceeds of a similar obligation pursuant to the terms of such obligation or of any such agreements. "Deferred long-term purchase price of property" as used herein shall mean any obligation payable over a period of more than one year from the date of creation thereof of which is renewable pursuant to the terms of an agreement, to a date more than one year after the date of the creation of such obligation, or may be payable out of the proceeds of a similar obligation pursuant to the terms of such obligation or of any such agreement;

- (d) any warranty made by the Vendee herein is breached or is false or misleading in any material respect, or any schedule, certificate, financial statement, report, notice, or other writing furnished by the Vendee to the Vendor is false or misleading in any material respect on the date as of which the facts therein set forth are stated or certified;
- (e) any defined benefit plan (described in Section 414 (j) or Section 414 (k) of the Internal Revenue Code of 1954) maintained by the Vendee is terminated and the current value of the benefits of such plan that may be guaranteed under Title IV of the Employee Retirement Income Security Act of 1974 exceeds the amount of plan assets allocable to such benefits;
- (f) a case shall be commenced under Subchapter IV of Chapter 11 of the Bankruptcy Code (as such Subchapter IV is now in effect or hereafter may be amended or replaced), by or against the Vendee and, unless such case shall have been dismissed, nullified or otherwise rendered ineffective (but then only so long as such ineffectiveness shall continue), (i) within 60 days after such case shall have been commenced, (A) all the obligations of the Vendee under this Agreement shall not have been duly assumed for the then expired term hereof in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such case in such manner that such obligations shall have, to the fullest extent permitted by law, the same status and priority as to payment as obligations incurred by such trustee or trustees which are entitled to payment as a first priority for costs and expenses of administration, and (B) all Events of Default under subparagraphs (a), (b), (c), (d) or (e) of this Section 6.1 shall not have been cured, and (ii) thereafter during the pendency of the case, the trustee or trustees appointed in such proceedings or case shall not cure in a timely fashion all other Events

of Default under subparagraphs (a), (b), (c), (d) or (e) of this Section 6.1 which from time to time occur hereunder; or

- (g) any other proceedings shall be commenced by or against the Vendee, or any proceedings shall be commenced by or against any Subsidiary, for any relief under any bankruptcy or insolvency law, or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition or extension, or the Board of Directors of the Vendee or any Subsidiary shall authorize the commencement of any proceedings for such relief or shall take any other action in furtherance thereof, and, if such proceedings have been commenced against the Vendee or any Subsidiary, such proceedings shall not have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue) within 60 days after such proceedings shall have commenced; or the Vendee or any Subsidiary shall become or is adjudicated insolvent or bankrupt, or shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or is unable to pay or is generally not paying its debts as they become due, or a trustee, custodian or receiver is applied for or appointed for the Vendee or any Subsidiary or for the major part of the property of any thereof and is not discharged within 60 days after such appointment; excluding, however, the proceedings for reorganization of the Ann Arbor Railroad Company commenced October 15, 1973, and presently pending before the United States District Court for the Eastern District of Michigan.

6.2 If any Event of Default described in Section 6.1 shall occur, then Vendor at its option may by notice in writing delivered to Vendee declare to be due and payable forthwith the entire unpaid balance of the Conditional Sale Indebtedness; and thereupon the entire unpaid balance of the Conditional Sale Indebtedness shall become and shall be, together with interest thereon then accrued and unpaid; and any other fees payable, due and payable immediately without further demand, and Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable by Vendee, with interest and any other fees payable and to collect such judgment out of any property of Vendee wherever situated. Any and all money so collected by Vendor shall be applied by it as hereinafter in Section 6.8 of this Agreement provided.

6.3 Vendor covenants and agrees that, in case of the happening of any such Event of Default, and after the entire unpaid balance of the Conditional Sale Indebtedness shall have been declared immediately due and payable as hereinbefore provided, and while such Event of Default has not been waived in writing by Vendor, Vendor, by its agents may take or cause to be taken immediate possession of all or any one or more of the Equipment wherever it or they may be situated, and may also remove the same from the use and possession of the Vendee,



and for this purpose may enter upon the railroads and premises of Vendee and of any corporation a majority of whose capital stock is owned directly or indirectly by Vendee, and take possession of all or any part of the Equipment and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made hereunder for the Equipment and otherwise, and may lease the Equipment or any part thereof, or, with or without retaking possession thereof (but only after making the declaration hereinabove provided for), may sell the same or any part thereof, so far as may be necessary to realize the balance remaining to be paid by Vendee under this Agreement free from any and all claims of Vendee at law or in equity, in one lot and as an entirety or in separate lots, at public or private sale, for cash or upon credit, in its discretion, and may otherwise proceed to enforce its rights in the manner provided by this Agreement. Any net proceeds from sale in excess of the balance remaining to be paid under this Agreement, shall be paid to Vendee.

6.4 In case Vendor shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the railroad of Vendee, or upon the railroad of any corporation a majority of whose capital stock is at the time directly or indirectly owned by Vendee, for the delivery of the Equipment to it, Vendee shall, at its own expense, forthwith and in the usual manner cause the Equipment to be moved to such a point or points on said railroads as shall be designated by Vendor and shall there deliver the same or cause them to be delivered to Vendor; or at the option of Vendor, Vendor may keep the Equipment on any of the lines of railroad or premises of Vendee until Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose Vendee agrees to furnish without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to Vendee. It is hereby expressly covenanted and agreed that the covenants in this Section 6.4 contained are of the essence of this Agreement and that, upon application to any Court having jurisdiction in the premises, Vendor shall be entitled to a decree against Vendee requiring the specific performance thereof and the Vendee expressly consents to the entry of such a decree.

6.5 Any such sale or sales may be held or conducted at such place or places and at such time or times as Vendor may specify, or as may be required by law, and without gathering at the place of sale the Equipment to be sold, and in general in such manner as Vendor may determine, but so that Vendee may and shall have a reasonable opportunity to bid at such sale.

6.6 Upon such taking possession or lease or sale of the Equipment, Vendee shall cease to have any rights or remedies in respect of the Equipment under this Agreement, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by Vendee, and no payments theretofore made by Vendee for the Equipment or any of them shall, in case of the happening of any such Event of Default and such taking possession, lease or sale by Vendor, give to Vendee any

legal or equitable interest or title in or to the Equipment or any of them or cause or right of action at law or in equity in respect to the Equipment against Vendor. No such taking possession or lease or sale of the Equipment by Vendor shall be a bar to the recovery by Vendor from Vendee of any unpaid balance of the purchase price of the Equipment, and Vendee shall be and remain liable for the same, until such sums shall have been realized as, with the proceeds of the lease or sale of Equipment, shall be sufficient for the discharge and payment in full of all sums payable by Vendee under any of the provisions of this Agreement.

6.7 Vendee will pay all reasonable expenses, including attorney's fees, incurred by Vendor in enforcing its remedies under the terms of this Agreement. In the event that Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit, Vendor may recover reasonable expenses, including attorney's fees, and the amount thereof shall be included in such judgment.

6.8 In in the case of the happening of any such event of default, Vendor shall exercise any of the powers conferred upon it by this Agreement, all payments made by Vendee to Vendor under this Agreement after such Event of Default, and the proceeds of any judgment collected by Vendor from Vendee hereunder, and the proceeds of every lease or sale by Vendor hereunder of any of the Equipment, together with any other sums which may then be held by Vendor under any of the provisions of this Agreement, shall be applied by Vendor in the order of priority, viz: (a) to the payment of all proper expenses incurred or advances made by Vendor in accordance with the provisions of this Agreement, including the expense of any retaking of the whole or any part of the Equipment and all expenses of the custody and of any lease or sale thereof, and (b) to the payment of all sums of money due and payable to Vendor under the provisions of this Agreement, including any taxes, assessments or governmental charges paid by or imposed upon Vendor in respect of the Equipment. After all such payments shall have been made in full, the title to any of the Equipment remaining unsold shall be conveyed by the Vendor to Vendee, free from any further liabilities or obligations to Vendor hereunder. If, after applying all of such sums of money realized by Vendor, as aforesaid, there shall remain any amount due to Vendor under the provisions of this Agreement, Vendee agrees to pay the amount of such deficit to Vendor. If, after applying, as aforesaid, the sums of money realized by Vendor, there shall remain a surplus in the possession of Vendor, such surplus shall be paid to Vendee.

6.9 The remedies in this Agreement provided in favor of Vendor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity.

6.10 The foregoing provisions, however, are subject to the condition that if at any time after unpaid balance of the Conditional Sale Indebtedness shall have been declared due and payable as provided in this Agreement, all arrears of installment payments of principal or the Conditional Sale Indebtedness and interest thereon as hereinabove provided and the expenses of Vendor and all other sums which shall have become due and payable by Vendee under this Agreement (other than the unpaid installments which shall not at the time have matured according to their terms) shall be paid by Vendee before any lease or sale by Vendor of any of the Equipment and every other default in the observance or performance of any covenant or condition of this Agreement shall be made good or secured to the satisfaction of Vendor, or provision deemed by Vendor to be adequate shall be made therefor, then and in every such case Vendor shall waive the event of default by reason of which the unpaid balance of the Conditional Sale Indebtedness shall have been declared and become due and payable and shall waive consequences of such Event of Default, but no such waiver shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

## 7. MISCELLANEOUS

7.1 Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an Agreement of Conditional Sale, shall as to such state be ineffective, without modifying as to such state the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by Vendee to the full extent permitted by law.

7.2 Vendee shall cause this Agreement, any assignments and supplements thereof and any financing statements covering the Equipment to be filed, registered and recorded wherever required for the proper protection to the satisfaction of counsel for Vendor, or Vendor's title to the Equipment, and its rights under this Agreement; and Vendee shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments, required by law or reasonably requested by Vendor for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this Agreement; and Vendee will promptly furnish to Vendor evidence of such recording.

7.3 Vendee will pay all reasonable costs, charges, and expenses, except the counsel fees of Vendor, and including stamp and other taxes, if any, incident to the printing or other duplicating, execution, delivery, filing or recording of this Agreement, of the first assignment of this Agreement, of any instrument supplemental to or amendatory of this Agreement, and of any certificate of the payment in full of the indebtedness in respect of purchase price due hereunder.

7.4 This Agreement of Conditional Sale constitutes the entire contract between Vendee and Vendor; no variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of Vendee and Vendor.

7.5 The terms of the Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Michigan.

7.6 All or any of the rights of Vendor under this Agreement, including the right to receive the payments herein provided to be made by Vendee, may be assigned by Vendor and reassigned by any assignee at any time and from time to time, provided, however, that no such assignment shall relieve Vendee of its obligations under this Agreement. In event of any such assignment, the assignor shall give written notice to Vendee, together with a counterpart or copy of such assignment, stating the identity of and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all of its assignor's right, title and interest in and to the Equipment and each and every part thereof, subject only to such reservations as may be obtained in such assignment. From and after the receipt by Vendee of the notification of any such assignment, all payments thereafter to be made by Vendee hereunder shall, to the extent so assigned, be made to the assignee. All rights as to notices and consents shall pass with such assignment. Vendee will furnish any such assignee with all reasonable supporting paper specified in any such assignment.

7.7 Wherever provision is made in this Agreement for any notice or demand to or upon Vendee, or if any time Vendor or any assignee shall desire to give notice to make demand upon Vendee, the same may be given or made by depositing a written statement thereof, enclosed in a postpaid envelope in any United States Post Office, directed to Vendee at its office or place of business in the City of Dearborn, Michigan, and an affidavit by any person depositing such notice in respect of such mailing shall be deemed to be and shall be conclusive evidence of the giving and receipt of such notice and the making of such demand.

7.8 This Agreement may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of November 15, 1979, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments here annexed.

WITNESS the due execution hereof.

DETROIT, TOLEDO & IRONTON RAILROAD COMPANY

By: *R. A. Sharp*

Its: President

ATTEST:

By: *A. D. L.*

Its: Assistant Secretary

In the presence of:

*J. E. Berman*  
*J. E. Berman*

CONTINENTAL ILLINOIS NATIONAL BANK  
AND TRUST COMPANY OF CHICAGO

By: *W. D. Moore*

Its: Vice President

ATTEST:

By: *Howard D. Meacham*

Its: Banking Officer

In the presence of:

*M. L. Gatten*  
*M. G. Allenburg*

On this 13th day of November, 1979, before me personally appeared R. A. Sharp, to me personally known who in my presence executed the foregoing instrument on behalf of Detroit, Toledo and Ironton Railroad Company on this date and who being by me duly sworn, said that he is the President of Detroit, Toledo and Ironton Railroad Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Valerie J. Beckman  
Notary Public,  
Wayne County, Michigan

My Commission Expires: April 4, 1983

Notarial

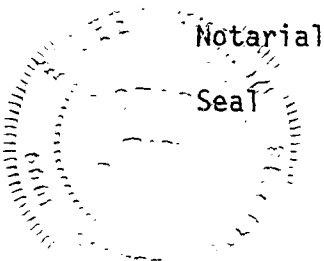
Seal



On this 13th day of November, 1979, before me personally appeared PETER D. HORNE to me personally known, who in my presence executed the foregoing instrument on behalf of Continental Illinois National Bank and Trust Company of Chicago on this date and who being by me duly sworn that he is the VICE PRESIDENT of Continental Illinois National Bank and Trust Company of Chicago, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Lulu Hudson  
Notary Public,  
\_\_\_\_\_ County, Illinois

My Commission Expires: Oct 11, 1983



GENERAL MOTORS CORPORATION, ELECTRO-MOTIVE DIVISION

A C K N O W L E D G E M E N T

General Motors Corporation, Electro-Motive Division, (herein called "EMD") does hereby acknowledge receipt of Conditional Sales Agreement No. 51 dated as of November 15, 1979. EMD hereby agrees to be bound by the provisions of Conditional Sale Agreement No. 51 insofar as they pertain to the obligations of EMD. EMD hereby also agrees to execute the Bill of Sale contained herein as an exhibit, immediately on receipt of the payment provided in Section 1.2 of said Conditional Sales Agreement.

GENERAL MOTORS CORPORATION,  
ELECTRO-MOTIVE DIVISION

By: *P.K. Hogan*

Its: VICE PRESIDENT

Date:                     , 1979

Attest *J. H. Scott*

ASSISTANT SECRETARY

Corporate

Seal



**ELECTRO-MOTIVE DIVISION**  
**GENERAL MOTORS CORPORATION**  
 La Grange, Illinois 60525 (312) 387-6000



**LOCOMOTIVE PROPOSAL NO. 786215**

*This proposal, inclusive of the conditions stated on the reverse side hereof, when accepted in writing constitutes an agreement to purchase the following equipment:*

**Four (4) 3000 horsepower GP40-2 Model locomotives in accordance with General Motors Locomotive Specification 8091.**

Base price per new GP40-2 locomotive-----\$ 534,200

Modifications as listed on page 2 (pages 2 & 3)-----\$ ~~34,880~~

Total price per locomotive, F.O.B., EMD Plant,  
 McCook, Illinois-----

\$ ~~569,080~~

34,855 *FB 11/3/78*  
 569,055 *FB 11/3/78*

Shipment from factory proposed for Fourth Quarter, 1979

(Proposed delivery is subject to prior order)

Accepted this date November 3 1978

Signed this date September 12, 1978

For DETROIT, TOLEDO & IRONTON RAILROAD CO.

GENERAL MOTORS CORPORATION  
 ELECTRO-MOTIVE DIVISION  
 La Grange, Illinois

DEARBORN, MICH.

By *[Signature]*

By *[Signature]*

Director, Material Procurement & Planning

B. C. Burdick  
 Regional Manager

Title

Title

**PERIOD OF OFFER**

This offer will remain open for a period of 60 days from the date of the proposal.

**PRICE ADJUSTMENTS**

The price for the equipment herein described is subject to the following:

- (a) Upon acceptance of this proposal by the Buyer within 60 days from its date, the price set forth herein for the basic equipment and standard modifications shall remain firm for shipments delivered within 210 days from the date of this proposal.
- (b) Price of basic equipment and standard modifications delivered more than 210 days from the date of this proposal may be adjusted to the price currently in effect on the date of shipment, limited however, to a maximum cumulative escalation of 5% per year from the date of this proposal.
- (c) Prices of specialties and modifications not included in the basic specifications of the equipment and not of Seller's design and manufacture are subject to adjustment by the Seller at any time prior to the delivery of the equipment.

Seller shall in no event be responsible for, and no protection against escalation is afforded for, default or delay in delivery occasioned by any cause beyond its control such as outlined in the "Delays" clause.

Conversely, if delivery delays result through fault of Seller the prices determined as set forth above, and as though no delay in delivery had occurred, will prevail.

**CERTIFICATE OF ACCEPTANCE**

Upon delivery of the equipment to the F.O.B. or acceptance point called for herein, Buyer will furnish Seller a certificate, in quadruplicate, executed by its authorized agent, stating that such equipment has been delivered and is accepted without reservation on its behalf.

**PAYMENT OF PURCHASE PRICE**

Upon execution of the Certificate of Acceptance and receipt of Seller's invoice, Buyer will pay the full purchase price of the equipment, together with expense incurred by Seller for collection or other charges. Seller will not deliver equipment until Buyer specifies in writing a method of payment acceptable to Seller.

**TAXES**

In addition to the purchase price, Buyer will assume and pay all lawfully applicable taxes including sales and use taxes and/or gross receipts or gross income taxes in the nature of sales taxes (other than State or Federal Income and Excess Profits Taxes) levied or imposed and arising out of the sale, use or delivery of the equipment called for herein.

**TITLE AND LIABILITY FOR DAMAGE**

Notwithstanding delivery of the equipment to Buyer and its right to the use thereof, the title to the equipment specified herein shall not pass from Seller until the purchase price is fully paid, and Buyer will perform all acts necessary to perfect and assure retention of title to the equipment in Seller.

Although legal title in and to the delivered equipment is retained by Seller until receipt of the full purchase price, Buyer will assume and not be released from its obligation to pay such purchase price in the event of any damage, loss or destruction of the equipment after delivery to the F.O.B. point.

**PATENTS**

The Seller shall defend any suit or proceeding brought against the Buyer so far as based on a claim that equipment of Seller's specification, or any part thereof, furnished under this contract constitutes an infringement of any patent, if notified promptly in writing and given authority, information and assistance (at Seller's expense) for the defense of same, and the Seller shall pay all damages and costs awarded therein against the Buyer.

In case said equipment, or any part thereof, is in such suit held to constitute infringement and the use of said equipment or part is enjoined, the Seller shall at his option and at his own expense, either procure for the Buyer the right to continue using said equipment or part, or replace same with non-infringing equipment, or modify it so it becomes non-infringing, or remove the entire equipment and refund the purchase price and the transportation and installation costs thereof.

The Seller will not assume liability for patent infringement by reason of purchase, manufacture, sale, or use of devices not included in and covered by its specification.

The foregoing states the entire liability of the Seller for patent infringement by said equipment or any part thereof.

**DELAYS**

Should delivery of the equipment covered by this proposal be delayed due to causes beyond the control of Seller, including but not limited to, late design changes or other actions taken by Buyer; acts of God; acts of the Government of the United States or of any State or political subdivision thereof; fires, floods, explosions or other catastrophes; epidemics and quarantine restrictions; acts of a public enemy; any strikes, slowdowns or labor shortages of any kind; any material, transportation or utility shortage or curtailment; delays of a supplier due to any of the foregoing causes, and the Seller promptly notifies the Buyer thereof in writing, the time allowed for performance will be extended by a period of time equal to the period of delay.

**SERVICING**

Seller will, when required, provide a service representative to assist Buyer, in a consulting capacity, in placing the equipment into operating condition.

**TRANSPORTATION**

For the purpose of enabling Seller's service representative(s) to fulfill Seller's obligation under this contract, Buyer will supply such representative(s) with transportation over its lines.

**WARRANTY**

Seller warrants to the original user that the locomotive is of the kind and quality described in the specification referred to herein and is suitable for the ordinary purposes for which such equipment is used.

Seller further warrants the locomotive to be free from defects in material and workmanship which may develop under normal use and service within two years from date of delivery or before the locomotive has been operated 250,000 miles whichever event shall first occur. Seller agrees to correct such defects, which examination shall disclose to Seller's satisfaction to be defective, by repair or replacement F.O.B. factory and such correction shall constitute fulfillment of Seller's obligation with respect to such defect under this warranty.

Seller warrants specialties not of its own specification or design to the same extent that the Suppliers of such specialties warrant such items to Seller.

*There are no warranties, expressed or implied, made by Seller except the warranties set out above.*

ELECTRO-MOTIVE DIVISION  
GENERAL MOTORS CORPORATION  
La Grange, Illinois 60525 (312) 387-6000



PROPOSAL NO. 786215

LOCOMOTIVE OPTIONS AND MODIFICATIONS

A.1.a	Provision for service application including	
	P2A valve-----	\$ 1,090
A.1.b	Full service brake application from D1 foot	
	pedal with warning whistle, time delay and	
	PC knockdown-----	\$ 350
A.1.e.4	Prime PM411 conductor's brake valve replacing	
	basic-----	\$ N/C
A.1.e.8	Two(2) proportioning relay valves, J1.3-13	
	and J1.6-16-----	\$ 1,645
A.2.d	Power Parts air compressor lube oil dip stick	
	replacing basic dial gauge-----	\$ 80
A.3.b	NYAB air flow indicator with Prime test	
	fitting-----	\$ 550
A.4.a	Salem 824-50 Centrifugal filter replacing	
	basic Salem 824 filter-----	\$ 100
A.4.b	Prime GWS-300-2P automatic drain valves at	
	both main reservoirs-----	\$ 220
A.5.a	Western Railway P/E 0555-ACN-74C electric bell	
	in short hood-basic deleted-----	\$ 740
A.5.b	Nathan M3R-1 horn-basic deleted-----	\$ N/C
B.3.a	Increased capacity sand boxes - 36 cu.ft. per	
	end-----	\$ 915
C	MU control-----	\$ 6,530
C.1.a	A-1 charging cut-off valve-----	\$ 990
C.1.a.2	Automatic 60 second timed sanding-----	\$ 330
C.2.a	Additional jumper cable - 9 ft. long-----	\$ 195
C.2.b	Jumper cable storage bracket - short hood-----	\$ 55
C.5.b	MU air hoses, both sides of coupler-----	\$ 320
E.3	Vapor automatic ground relay supplements basic	
	reset-----	\$ 535
E.5.a	Accelerated start features - trainlined-----	\$ 330
E.5.b	Reduced reverser motor timing-----	\$ N/C
E.6	18 KW AC auxiliary generator-----	\$ 1,605
F.1.a.2	Indicating light, inertial blower motor CB	
	tripped-----	\$ 170
F.5	Engine turning jack-----	\$ 215
F.6	Vapor fuel oil preheater Model 588-2 with no	
	automatic thermostatic controls-----	\$ 560
G.8.a	Composition brake shoes-----	\$ 350
H.1	Pedestal mounted American Seating Model 6318-A	
	engineer's cab seat with armrests with two	
	auxiliary cab seats, slide rail mounted, with	
	armrests. Engineer's window armrest deleted-\$	650

325 *11/3/55*

\*Estimate

**ELECTRO-MOTIVE DIVISION**  
**GENERAL MOTORS CORPORATION**  
 La Grange, Illinois 60525 (312) 387-6000



PROPOSAL NO. 786215

LOCOMOTIVE OPTIONS AND MODIFICATIONS

H.2	VR 777 Vorta cool refrigerator with Columbian flat cup dispenser-----	\$ 1,395
H.4	Full electric cab heat-----	N/C
H.5	Solid Benelex replacing basic plywood/linoleum cab flooring including divided trapdoor-----	650
H.6	Prime SC-977-31 metal awning on helper's side of cab only-----	240
H.7	Prime SC-371-100 wind deflector, front and rear, helper's side only-----	265
H.10.b	Additional electrical plug in cab-----	60
H.10.d	Special shorthood rating plate-----	N/C
I.	Provision for application of firecracker type radio antenna including application of conduit, 15 amp CB and wiring to control console-----	735
J.2.a	SP type snow plow at front end-----	2,815
J.3.a	Ground lights in addition to step lights, both sides of cab window-----	325
J.3.b	Power Parts 10739 roof top beacon-----	660
J.6.a	Four (4) additional jacking pads/cable slings located at corners-----	1,930
J.7	Ballast to 261,500 lbs.-----	520
J.9.a	Two(2) additional grab irons - short hood-----	80
K.	2600 gallon fuel tank, 2500 gallons fuel with optional 100 gallon retention tank. Rochester dial gauge on engineer's side and 8" fill gauges on both sides-----	3,860
L.2	ACI labels on metal plates-----	75
L.4	Polyurethane paint - two color scheme-----	1,710
L.6	Scotchlite decals and medallion, provided by EMD\$	570
M.2	Fresh change of Arco GL Supreme oil-----	465
TOTAL MODIFICATIONS-----		\$ 34,880

SUMMARY QUOTATION

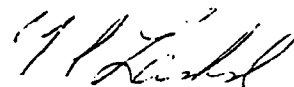
CUSTOMER: Detroit, Toledo and Ironton Railroad Corp. September 28, ,1979  
EMD ORDER NO.: 786215  
QUANTITY/MODEL: Four (4) GP40-2 locomotives  
CUSTOMER ORDER NO.: D32475  
& Signed Proposal No. 786215

This quotation lists all modifications mutually agreed upon and for which a charge is made; it supersedes all previous quotations and forms the basis for the invoice which will follow.

<u>Modification No.</u>	<u>Description</u>
-------------------------	--------------------

Per Proposal 786215, dated September 12, 1978, and subsequent changes  
in modifications, mutually agreed upon:

Base price per new GP40-2 locomotive. . . . .	.\$534,200
Total modifications . . . . .	.\$ <u>35,905</u>
Total price per locomotive, F.O.B., EMD Plant, McCook, Illinois . . . . .	.\$570,105

  
G. S. Laskowski  
Sales Engineering

GSL:dhv

SUMMARY QUOTATION

CUSTOMER: Detroit, Toledo and Ironton Railroad Corp.

September 28, 1979

EMD ORDER NO.: 786215

QUANTITY/MODEL: Four (4) GP40-2 Locomotives

CUSTOMER ORDER NO.: D32475

& Signed Proposal No. 786215

This quotation lists all modifications mutually agreed upon and for which a charge is made; it supersedes all previous quotations and forms the basis for the invoice which will follow.

Modification No.	Description - LOCOMOTIVE OPTIONS AND MODIFICATIONS
A.1.a. 34015	Provision for service application including P2A valve-----\$ 1,090
A.1.b. 38867	Provision for safety control consisting of piping from P2A valve to safety control cutout cock-----\$ 205
A.1.e.6. 38825	Additional brake pipe cutout cock located behind pilot, both ends-----\$ 590
A.1.e.8. 37880	Two (2) proportioning relay valves, J1.3-13 and J1.6-16-----\$ 1,645
A.2.d. 37679	Power Parts air compressor lube oil dip stick replacing basic dial gauge-----\$ 80
A.3.b. 37883	NYAB air flow indicator with Prime test fitting-----\$ 550
A.4.a. 31460	Salem 824-50 Centrifugal filter replacing basic Salem 824 filter-----\$ 100
A.4.b. 26360	Prime GWS-300-2P automatic drain valves at both main reservoirs-----\$ 220
A.5.a. 37884	Western Railway P/N 0555-ACN-74C electric bell in short hood-basic deleted-----\$ 740
B.3.a. 34631	Increased capacity sand boxes - 36 cu.ft. per end---\$ 915
C. 37558, 34471	MU control-----\$ 6,530
38211	
C.1.a. 34016	A-1 charging cut-off valve-----\$ 990
C.1.a.2. 34909	Automatic 60 second timed sanding-----\$ 330
C.2.a. 5453	Additional jumper cable - 9 ft. long-----\$ 195
C.2.b. 17206	Jumper cable storage bracket - short hood-----\$ 55
C.5.b. 26826	MU air hoses, both sides of coupler-----\$ 320
E.3. 38212	Vapor automatic ground relay supplements basic reset-----\$ 535
E.5.a. 38213	Accelerated start features - trainlined-----\$ 330
E.6. 37567	18 KW AC auxiliary generator-----\$ 1,605
F.1.a.2. 37569	Indicating light, inertial blower motor CB tripped-----\$ 170
F.5. 10985	Engine turning jack-----\$ 215
F.6. 37831	Vapor fuel oil preheater Model 588-2 with no automatic thermostatic controls-----\$ 560
G.8.a. 37890	Composition brake shoes-----\$ 325

SUMMARY QUOTATION

CUSTOMER: Detroit, Toledo and Ironton Railroad Corp.

September 28, 1979

EMD ORDER NO.: 786215

QUANTITY/MODEL: Four (4) GP40-2 locomotives

CUSTOMER ORDER NO.: D32475

& Signed Proposal No. 786215

This quotation lists all modifications mutually agreed upon and for which a charge is made; it supersedes all previous quotations and forms the basis for the invoice which will follow.

Modification No.		Description - LOCOMOTIVE OPTIONS AND MODIFICATIONS	
H.1.	37891	Pedestal mounted American Seating Model 6318-A	
	37892	engineer's cab seat with armrests with two	
	10544	auxiliary cab seats, slide rail mounted, with	
		armrests. Engineer's window armrest deleted-----	\$ 650
H.2.	35224	VR 777 Vorta cool refrigerator with Columbian	
	38868	flat cup dispenser-----	\$ 1,395
H.5.	34645	Solid Benelex replacing basic plywood/linoleum	
		cab flooring including divided trapdoor-----	\$ 650
H.6.	27550	Prime SC-977-31 metal awning on helper's side of	
		cab only-----	\$ 240
H.7.	37895	Prime SC-871-100 wind deflector, front and rear,	
		helper's side only-----	\$ 265
H.10.b.	38216	Additional electrical plug in cab-----	\$ 60
H.10.e.	34820	Elcon-National "Triplex A" glazing on all front and	
		rear facing windows-----	\$ 1,095
I.	38219	Provision for application of firecracker type radio	
		antenna including application of conduit, 15 amp	
		CB and wiring to control console-----	\$ 735
J.2.a.	37901	SP type snow plow at front end-----	\$ 2,815
J.3.a.	38593	Ground lights in addition to step lights, both	
		sides of cab window-----	\$ 325
J.3.b.	38220	Power Parts 10739 roof top beacon-----	\$ 660
J.6.a.	35107	Four (4) additional jacking pads/cable slings	
		located at corners-----	\$ 1,900
J.7.	30433	Ballast to 261,500 lbs.-----	\$ 520
J.9.a.	13664	Two (2) additional grab irons - short hood-----	\$ 80
K.	37904	2,600 gallon fuel tank, 2,500 gallons fuel with	
		optional 100 gallon retention tank. Rochester	
		dial gauge on engineer's side and 8" fill gauges	
		on both sides-----	\$ 3,860
L.2.	39280	ACI labels on metal plates-----	\$ 75
L.4.	38597	Polyurethane paint - two color scheme-----	\$ 1,710
L.6.	38598	EMD supplied scotchlite numerals and application of	
		DT & I supplied scotchlite logo-----	\$ 80
M.2.	17434	Fresh change of Arco GL Supreme oil-----	\$ 465
TOTAL MODIFICATIONS-----			\$35,905

# Detroit Toledo and Ironton Railroad Company

SUITE - 600 EAST  
ONE PARK LANE BOULEVARD  
DEARBORN, MICHIGAN 48126

Show our complete order number and stock number on all invoices, packages and shipping documents.

D 32475

## SOURCE DOCUMENTS

- ☐ Order Cards  
☐ Inquiry #  
☐ P.N. #

ORDER NUMBER

## PURCHASE ORDER

VENUE	LOC	AREA	COST
		502	963
ACCT	SUB	ST	WORK ORDER
952	00	1	

### EXHIBIT B

Do not change shipping point or routing instructions without permission from this office. Bill of Lading must be attached to all original invoices.

TO: **Electro-Motive Division**  
**General Motors Corporation**  
1000 Jorie Blvd., Suite 138  
Oak Brook, Illinois 60521  
Attn: Mr. J. C. Singleton

SHIP TO:

**Detroit Toledo and Ironton Railroad Company**  
**H. K. Lake**  
**Superintendent Locomotives**  
**Flat Rock, Michigan 48134**

ROUTE

**IHB-CRC-Lima-DT&I**

DATE

SHIP TO ARRIVE

TERMS

F.O.B.

Nov. 3, 1978

4th Quarter 1979

\*SEE BELOW

McCook, Illinois

DTIRR STOCK NO.	DESCRIPTION	QUAN. RECD.	ORDER QUANTITY	UNIT	UNIT PRICE
26-SP	<p>GP40-2 Model locomotives in accordance with General Motors Locomotive Specification 8091 and proposal 786215.</p> <p>*Net Cash on receipt of invoices accompanied by certificate of acceptance signed by a representative of the Detroit, Toledo and Ironton Railroad Company.</p> <p>In addition, carrier reserves the right to assign this purchase order to an acceptable financial lending company before delivery of the locomotives.</p>		4	Ea.	569,055

RLB/mcd



EXHIBIT C

GENERAL MOTORS CORPORATION, ELECTRO-MOTIVE DIVISION

BILL OF SALE

GENERAL MOTORS CORPORATION, ELECTRO-MOTIVE DIVISION (herein called "EMD") in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby sell, assign, set over and transfer to CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association (herein called "Bank"), the designee of the Detroit, Toledo and Ironton Railroad Company to take title to the diesel electric locomotives hereinafter specified, manufactured by EMD pursuant to its contract with said Railroad Company, evidenced by EMD's Proposal No. 786215 dated September 12, 1978, (herein called "Contract"), and to the successors and assigns of said Bank, four (4) 3000 horsepower GP 40.2 Model diesel electric locomotives bearing the following marks and numbers, to wit;

DTI 422

DTI 423

DTI 424

DTI 425

lettered "Owned by Bank or Trust Company under a Security Agreement filed under the Interstate Commerce Act, Section 11303" together with EMD's retention of title pursuant to the Contract specified in the Terms and Conditions of said Proposal; and EMD hereby warrants to the Bank that on the date hereof EMD has legal title to the above described diesel electric locomotives and good and lawful right to sell said diesel electric locomotives and the title to said diesel electric locomotives was free of all claims, liens and encumbrances of any nature whatsoever; and EMD further warrants to Bank the warranties contained in said Proposal to which reference is hereby made.

IN WITNESS WHEREOF, EMD has caused its corporate seal to be hereto affixed, duly attested and this instrument to be signed in its name by its \_\_\_\_\_, this \_\_\_\_\_ day of November, 1979.

GENERAL MOTORS CORPORATION, ELECTRO-MOTIVE DIVISION

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Corporate

Seal

EXHIBIT D  
PAYMENT SCHEDULE  
CONDITIONAL SALE AGREEMENT NO. 51  
BETWEEN  
CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO  
AND  
DETROIT, TOLEDO AND Ironton RAILROAD COMPANY

<u>Payment No.</u>	<u>Payment Date</u>	<u>Principal Payment</u>	<u>Interest Payment</u>	<u>Total Payment</u>	<u>Principal Balance</u>
					\$2,280,420.00
1	2-15-80	\$57,010.50	\$64,136.81*	\$121,147.31*	2,223,409.50
2	5-15-80	57,010.50	62,533.39	119,543.89	2,166,399.00
3	8-15-80	57,010.50	60,929.97	117,940.47	2,109,398.50
4	11-15-80	57,010.50	59,326.55	116,337.05	2,052,378.00
5	2-15-81	57,010.50	57,723.13	114,733.63	1,995,367.50
6	5-15-81	57,010.50	56,119.71	113,130.21	1,938,357.00
7	8-15-81	57,010.50	54,516.29	111,526.79	1,881,346.50
8	11-15-81	57,010.50	52,912.87	109,923.37	1,824,336.00
9	2-15-82	57,010.50	51,309.45	108,319.95	1,767,325.50
10	5-15-82	57,010.50	49,706.03	106,716.53	1,710,315.00
11	8-15-82	57,010.50	48,102.61	105,113.11	1,653,304.50
12	11-15-82	57,010.50	46,499.19	103,509.69	1,596,294.00
13	2-15-83	57,010.50	44,895.77	101,906.27	1,539,283.50
14	5-15-83	57,010.50	43,292.35	100,302.85	1,482,273.00
15	8-15-83	57,010.50	41,688.93	98,699.43	1,425,262.50
16	11-15-83	57,010.50	40,085.51	97,096.01	1,368,252.00
17	2-15-84	57,010.50	38,482.09	95,492.59	1,311,241.50
18	5-15-84	57,010.50	36,878.67	93,889.17	1,254,231.00
19	8-15-84	57,010.50	35,275.25	92,285.75	1,197,220.50
20	11-15-84	57,010.50	33,671.83	90,682.33	1,140,210.00
21	2-15-85	57,010.50	32,068.41	89,078.91	1,083,199.50
22	5-15-85	57,010.50	30,464.99	87,475.49	1,026,189.00
23	8-15-85	57,010.50	28,861.57	85,872.07	969,178.50
24	11-15-85	57,010.50	27,258.15	84,268.65	912,168.00
25	2-15-86	57,010.50	25,654.73	82,665.23	855,157.50
26	5-15-86	57,010.50	24,051.30	81,061.80	798,147.00
27	8-15-86	57,010.50	22,447.88	79,458.38	741,136.50
28	11-15-86	57,010.50	20,844.46	77,854.96	684,126.00
29	2-15-87	57,010.50	19,241.04	76,251.54	627,115.50
30	5-15-87	57,010.50	17,637.62	74,648.12	570,105.00
31	8-15-87	57,010.50	16,034.20	73,044.70	513,094.50
32	11-15-87	57,010.50	14,430.78	71,441.28	456,084.00
33	2-15-88	57,010.50	12,827.36	69,837.86	399,073.50
34	5-15-88	57,010.50	11,233.94	68,234.44	342,063.00
35	8-15-88	57,010.50	9,620.52	66,631.02	285,052.50
36	11-15-88	57,010.50	8,017.10	65,027.60	228,042.00
37	2-15-89	57,010.50	6,413.68	63,424.18	171,031.50
38	5-15-89	57,010.50	4,810.26	61,820.76	114,021.00
39	8-15-89	57,010.50	3,206.84	60,217.34	57,010.50
40	11-15-89	\$57,010.50	1,603.42	58,613.92	- 0 -

\* The interest payment and total payment due 2-15-80 may vary due to the actual date of closing.